

§ 1.1-2

income would be \$4,232.50, computed as follows from the table in section 1(a)(2):

Tax on \$14,000 (from table)	\$3,550.00
Tax on \$1,750 (at 39 percent as determined from the table)	682.50
Total tax on \$15,750	4,232.50

Example 3. Assume the same facts as in example (1), except the figures are for the calendar year 1971. The tax upon such taxable income would be \$3,752.50, computed as follows from the table in section 1(c), as amended:

Tax on \$14,000 (from table)	\$3,210.00
Tax on \$1,750 (at 31 percent as determined from the table)	542.50
Total tax on \$15,750	3,752.50

(b) *Citizens or residents of the United States liable to tax.* In general, all citizens of the United States, wherever resident, and all resident alien individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year is, except as provided in section 933 with respect to Puerto Rican source income, subject to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 871 and 877.

(c) *Who is a citizen.* Every person born or naturalized in the United States and subject to its jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see chapters 1 and 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1401-1459). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act (8 U.S.C. 1481-1489), *Schneider v. Rusk*, (1964) 377 U.S. 163, and Rev. Rul. 70-506, C.B. 1970-2, 1. For rules pertaining to persons who are nationals but not citizens at birth, e.g., a person born in American Samoa, see section 308 of such Act (8 U.S.C. 1408). For special rules applicable to certain expatriates who have lost citizenship with a principal purpose of avoiding certain taxes, see section 877. A foreigner who has filed his declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final

26 CFR Ch. I (4-1-00 Edition)

order of a naturalization court is an alien.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 7332, 39 FR 44216, Dec. 23, 1974]

§ 1.1-2 Limitation on tax.

(a) *Taxable years ending before January 1, 1971.* For taxable years ending before January 1, 1971, the tax imposed by section 1 (whether by subsection (a) or subsection (b) thereof) shall not exceed 87 percent of the taxable income for the taxable year. For purposes of determining this limitation the tax under section 1 (a) or (b) and the tax at the 87-percent rate shall each be computed before the allowance of any credits against the tax. Where the alternative tax on capital gains is imposed under section 1201(b), the 87-percent limitation shall apply only to the partial tax computed on the taxable income reduced by 50 percent of the excess of net long-term capital gains over net short-term capital losses. Where, for purposes of computations under the income averaging provisions, section 1201(b) is treated as imposing the alternative tax on capital gains computed under section 1304(e)(2), the 87-percent limitation shall apply only to the tax equal to the tax imposed by section 1, reduced by the amount of the tax imposed by section 1 which is attributable to capital gain net income for the computation year.

(b) *Taxable years beginning after December 31, 1970.* If, for any taxable year beginning after December 31, 1970, an individual has earned taxable income which exceeds his taxable income as defined by section 1348, the tax imposed by section 1, as amended by the Tax Reform Act of 1969, shall not exceed the sum computed under the provisions of section 1348. For imposition of minimum tax for tax preferences see sections 56 through 58.

[T.D. 7117, 36 FR 9397, May 25, 1971]

§ 1.1-3 Change in rates applicable to taxable year.

For computation of the tax for a taxable year during which a change in the

Internal Revenue Service, Treasury

§ 1.1(i)-1T

tax rates occurs, see section 21 and the regulations thereunder.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960. Redesignated by T.D. 7117, 36 FR 9397, May 25, 1971]

§ 1.1(i)-1T Questions and answers relating to the tax on unearned income certain minor children (Temporary).

IN GENERAL

Q-1. To whom does section 1(i) apply?

A-1. Section 1(i) applies to any child who is under 14 years of age at the close of the taxable year, who has at least one living parent at the close of the taxable year, and who recognizes over \$1,000 of unearned income during the taxable year.

Q-2. What is the effective date of section 1(i)?

A-2. Section 1(i) applies to taxable years of the child beginning after December 31, 1986.

COMPUTATION OF TAX

Q-3. What is the amount of tax imposed by section 1 on a child to whom section 1(i) applies?

A-3. In the case of a child to whom section 1(i) applies, the amount of tax imposed by section 1 equals the greater of (A) the tax imposed by section 1 without regard to section 1(i) or (B) the sum of the tax that would be imposed by section 1 if the child's taxable income was reduced by the child's net unearned income, plus the child's share of the allocable parental tax.

Q-4. What is the allocable parental tax?

A-4. The allocable parental tax is the excess of (A) the tax that would be imposed by section 1 on the sum of the parent's taxable income plus the net unearned income of all children of such parent to whom section 1(i) applies, over (B) the tax imposed by section 1 on the parent's taxable income. Thus, the allocable parental tax is not computed with reference to unearned income of a child over 14 or a child under 14 with less than \$1,000 of unearned income. See A-10 through A-13 for rules regarding the determination of the parent(s) whose taxable income is taken into account under section 1(i). See A-14 for rules regarding the determination of children of the parent whose net

unearned income is taken into account under section 1(i).

Q-5. What is the child's share of the allocable parental tax?

A-5. The child's share of the allocable parental tax is an amount that bears the same ratio to the total allocable parental tax as the child's net unearned income bears to the total net unearned income of all children of such parent to whom section 1(i) applies. See A-14.

Example 1. During 1988, D, and a 12 year old, receives \$5,000 of unearned income and no earned income. D has no itemized deductions and is not eligible for a personal exemption. D's parents have two other children, E, a 15 year old, and F, a 10 year old. E has \$10,000 of unearned income and F has \$100 of unearned income. D's parents file a joint return for 1988 and report taxable income of \$70,000. Neither D's nor his parent's taxable income is attributable to net capital gain. D's tax liability for 1988, determined without regard to section 1(i), is \$675 on \$4,500 of taxable income (\$5,000 less \$500 allowable standard deduction). In applying section 1(i), D's tax would be equal to the sum of (A) the tax that would be imposed on D's taxable income if it were reduced by any net unearned income, plus (B) D's share of the allocable parental tax. Only D's unearned income is taken into account in determining the allocable parental tax because E is over 14 and F has less than \$1,000 of unearned income. See A-4. D's net unearned income is \$4,000 (\$4,500 taxable unearned income less \$500). The tax imposed on D's taxable income as reduced by D's net unearned income is \$75 (\$500×15%). The allocable parental tax is \$1,225, the excess of \$16,957.50 (the tax on \$74,000, the parent's taxable income plus D's net unearned income) over \$15,732.50 (the tax on \$70,000, the parent's taxable income). See A-4. Thus, D's tax under section 1(i)(1)(B) is \$1,300 (\$1,225+\$75). Since this amount is greater than the amount of D's tax liability as determined without regard to section 1(i), the amount of tax imposed on D for 1988 is \$1,300. See A-3.

Example 2. H and W have 3 children, A, B, and C, who are all under 14 years of age. For the taxable year 1988, H and W file a joint return and report taxable income of \$129,750. The tax imposed by section 1 on H and W is \$35,355. A has \$5,000 of net unearned income and B and C each have \$2,500 of net unearned income during 1988. The allocable parental tax imposed on A, B, and C's combined net unearned income of \$10,000 is \$3,300. This tax is the excess of \$38,655, which is the tax imposed by section 1 on \$139,750 (\$129,750+\$10,000), over \$35,355 (the tax imposed by section 1 on H and W's taxable income of \$129,750). See A-4. Each child's share of the allocable parental tax is an amount that